

ORIGINAL

CONDITIONAL SALE AGREEMENT

RECORDATION NO. _____

SEP 16 1971 -2 15 PM

CONDITIONAL SALE AGREEMENT, dated as of August 10, 1971, by and between THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware corporation (hereinafter called "Owner"), and AUTO-TRAIN CORPORATION, a Florida corporation (hereinafter called "Buyer");

WITNESSETH THAT:

In consideration of the mutual premises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

1. Owner hereby agrees to sell and deliver to Buyer, and Buyer hereby agrees to buy from Owner and to accept delivery of, and to pay therefor, all as hereinafter set forth, the following described railroad equipment:

3 full-length dome-lounge passenger cars, bearing Owner's road Nos. 507, 510 and 512.

All of said cars are hereinafter sometimes collectively referred to as the "Equipment," and such cars singly are hereinafter referred to as a "Unit."

2. Owner shall deliver the Equipment to Buyer, upon payment of the first installment of the Purchase Price (as hereinafter defined) at Owner's 18th Street Coach Yards at Chicago, Illinois, on September 23, 1971, or such later date as may be mutually agreed to in writing by Owner and Buyer (such date being hereinafter referred to as the "Delivery Date"). Upon delivery of the Equipment, Buyer

will assume all responsibility and risk of loss, howsoever occasioned, with respect to the Equipment, or any Units. Buyer shall remove the Equipment from the premises of Owner not later than five days after the Delivery Date, and, in the event of its failure to do so, Buyer agrees to pay Owner the sum of \$ 50.00 per Unit for each additional day the Equipment or any Units remain at Owner's 18th Street Coach Yard.

3. Owner reserves the right to substitute other full-length dome-lounge passenger cars of its 506-513 road number series for any of the Units of Equipment referred to in Paragraph 1. In the event of loss, damage or destruction to any of the aforementioned Units prior to delivery to Buyer, Owner may at its option either place said Unit or Units in condition for delivery or withdraw said Unit or Units from this Agreement.

4. The purchase price of the Equipment is \$135,000 per Unit, f. o. b. Owner's 18th Street Coach Yard at Chicago, Illinois, amounting to a total of \$405,000 for all Units (such aggregate amount being hereinafter called the "Purchase Price"). The aforesaid Purchase Price shall be reduced to the extent that any Units of Equipment shall be withdrawn from this agreement pursuant to Paragraph 3 or Paragraph 28.

The Buyer hereby promises to pay in cash to Owner at 80 E. Jackson Blvd., Chicago, Ill., the Purchase Price of the Equipment as follows:

- (a) A sum equal to 20% of the Purchase Price to be paid by Buyer to Owner by a certified or bank cashier's check, in funds

available to Owner at Chicago, Illinois, on the Delivery Date; and

(b) A sum equal to 20% of the Purchase Price on each successive anniversary of the Delivery Date for a period of four years ending on the fourth anniversary of said Delivery Date.

The unpaid portion of the Purchase Price shall bear interest, payable annually on each anniversary of the Delivery Date, at a rate of nine per cent (9%) per annum.

5. Buyer may at its election, at any time and from time to time, upon at least five days' written notice from Buyer to Owner, voluntarily prepay any portion or all of the Purchase Price set forth in Paragraph 4, with accrued interest to the date of such prepayment on the amount prepaid. Any such prepayment of less than all of the unpaid portion of the Purchase Price shall be applied toward the annual installments provided for in Paragraph 4 in the inverse order of their maturity. Any such prepayment may be made without premium.

6. Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months. Buyer will pay, to the extent legally enforceable, interest at the rate of 10% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, including by acceleration. All payments provided for in this Agreement shall be made by Buyer

in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

7. Owner makes no express or implied warranties of merchantability, fitness for particular purpose, or otherwise, which extend beyond the above description of the Equipment, which is sold to Buyer in an "as is" condition. Further, the Owner makes no warranties, express or implied, that the design, quality and component parts of each Unit of Equipment conform to Interstate Commerce Commission and/or Department of Transportation requirements and specifications, or to the standards recommended or required by the Association of American Railroads or of any legislative, executive, judicial or regulatory body now or hereafter exercising power or jurisdiction over railroad equipment of the character of the Equipment covered by this Agreement.

8. Owner shall and hereby does retain the full legal title to and property in the Equipment until the Buyer shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Buyer as herein provided. When and only when Buyer shall have paid the full Purchase Price for all Equipment, together with interest and any and all other payments required hereby, and shall have performed all of Buyer's covenants and conditions herein contained, title to and property in all of the Equipment shall pass

to and vest in Buyer without further transfer or act on the part of Owner, except that Owner shall, if so requested by Buyer, execute and deliver to Buyer a bill or bills of sale of all of the Equipment to Buyer free and clear of all liens and encumbrances created by any act, default or omission of Owner, and shall execute for record or for filing in public offices such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of Buyer to all of the Equipment. The Buyer hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or to file such certificate within a reasonable time after written demand of the Buyer.

9. Prior to the Delivery Date, Owner shall have the right to remove its identification from the Equipment. Upon delivery of each Unit, Buyer will furnish a delivery certificate to Owner and shall conspicuously paint or stencil on each side of each said Unit, and shall retain thereon throughout the term of this Agreement, the following words in letters not less than 1" in height:

"This Equipment is Subject to a Security Interest Filed
with the I. C. C. under Section 20c of the Interstate Commerce
Act. "

Except as herein provided, Buyer will not allow the name of any person or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership thereof, or change or permit to be changed the identifying road numbers thereof, except in accordance with a statement of new identifying road numbers to be substituted therefor, which shall previously have been filed with Owner by Buyer and filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act; provided, however, that the Equipment may be lettered "Auto-Train" or in some other appropriate manner for convenience or identification of Buyer's interest therein.

10. Buyer covenants that it shall at all times after the delivery and acceptance of any Unit of Equipment maintain and keep the same in good order and repair at its expense. In the event that any Unit of Equipment shall become worn out, lost, stolen, destroyed or damaged to an extent as to require repairs estimated to cost in excess of \$10,000 or otherwise rendered unfit for use from any cause whatsoever prior to the payment in full of the Purchase Price, together with interest thereon and all other payments required thereby, the Buyer shall within ten days fully inform the Owner in regard thereto. Within twenty days thereafter, Buyer may at its option either repair at Buyer's expense the Units of Equipment or pay to Owner the full unpaid Purchase Price

with respect to such Unit or Units, together with accrued interest thereon to the date of such payment.

11. In addition to other payments to be made by Buyer hereunder, Buyer shall assume and pay all, or reimburse the Owner if the Owner shall be required to pay any, excise, sales, gross income or other taxes with respect to this transaction which may be imposed by any governmental authority. Buyer shall pay promptly all taxes and assessments which may be imposed upon the Equipment or the earnings arising therefrom or the operation thereof, or by reason of the ownership thereof, after the delivery and acceptance thereof, by any jurisdiction in which the Equipment is operated, and shall keep at all times all and every part of the Equipment free and clear of all liens and encumbrances; provided, however, that Buyer may, in good faith, appropriately contest the same in any reasonable manner which does not affect Owner's title.

12. Buyer further covenants that it will comply in all respects with all the laws of the United States and of the States into which its operations involving the Equipment may extend during the term of this Agreement, and with all lawful requirements of the Interstate Commerce Commission and the Department of Transportation and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over any of the Equipment, and in the event that said laws or requirements prescribe alteration of any of the Equipment, Buyer agrees to conform therewith, at its expense, and to maintain the same in

proper condition for operation under such laws and requirements during the life of this Agreement; provided, however, that Buyer may in good faith contest the validity or applicability of any such law or requirement, in any reasonable manner which does not affect Owner's title.

13. Owner shall have the right, but shall be under no obligation to inspect the Equipment, together with operating and maintenance records pertaining thereto, at any reasonable time during the continuance of this Agreement. Buyer shall provide to Owner as soon as released copies of its Annual Report to Stockholders, as well as all quarterly reports furnished regulatory agencies, including, but not limited to, the Interstate Commerce Commission and the Securities and Exchange Commission.

14. Buyer shall, after delivery of the Equipment, save, indemnify and keep harmless Owner from and against all losses, damages, injuries, claims, demands, and causes of action, whatsoever in nature, regardless of the cause thereof, arising on account of the Equipment or the use, operation or storage thereof by Buyer, or the retention of a security interest by Owner therein. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Purchase Price and the transfer of title to the Equipment as provided in Paragraph 8 hereof.

15. Buyer, at its own expense, shall procure and continue in force throughout the term of this Agreement, a policy or policies of insurance providing fire and extended coverage, with Owner as a named insured thereon, issued by an insurer or insurers satisfactory to Owner,

in an amount of not less than the current unpaid Purchase Price of the Equipment. Said policy or policies shall further provide that the insurer or insurers will provide Owner 30 days' notice in writing of cancellation of or any substantial change in the amount of insurance or coverage in said policy or policies. Buyer shall provide Owner with a copy of each such policy of insurance prior to the Delivery Date.

Buyer, at its own expense, shall procure and continue in force throughout the term of this Agreement, a policy or policies of contractual liability insurance in an amount, or aggregate amount, of \$10 million issued by an insurer or insurers satisfactory to Owner covering in full the contractual obligations to the Owner assumed by Buyer pursuant to Paragraph 14 of this Agreement. Said policy or policies shall incorporate therein in haec verba the provisions of Paragraph 14 of this Agreement, and shall provide that the insurer or insurers will provide Owner 30 days' written notice of cancellation of or any substantial change in the amount of insurance or coverage in said policy or policies. Buyer shall provide Owner with a copy of each such policy of insurance prior to the Delivery Date.

16. So long as it shall not be in default under this Agreement, Buyer shall be entitled to the possession and the use of the Equipment, and shall have right to cause the Equipment to be modified, consistent with the use of the Equipment by Buyer in interstate commerce; provided, however, that Buyer shall not permit any lien or encumbrance to attach to said Equipment or any Unit thereof by virtue of such modification. Any improvements, attachments and accessories to the Equipment, whether or not resulting from such modification shall constitute accessions to the Equipment and

shall be subject to the terms of this Agreement as if included in the Equipment upon delivery.

17. Buyer covenants and agrees that it will not sell, assign, transfer or otherwise dispose of its right under this Agreement or, except as hereinbefore provided, transfer possession of any of the Equipment to any other firm, persons or corporation without first obtaining the written consent of Owner to such sale, assignment or transfer. Buyer further covenants and agrees that it will not pledge, hypothecate or in any way encumber or permit the encumbrance of any part or all of the Equipment including accessions thereto, resulting from any modification.

18. In the event that any one or more of the following events of default shall occur, to-wit:

(a) If Buyer shall fail to pay in full any installment of the Purchase Price, or interest thereon, as provided in Paragraph 4 hereof for more than thirty days after the same shall have become due and payable; or

(b) If Buyer shall fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement on its part to be kept and performed for than than sixty days after Owner shall have demanded in writing performance of same; or

(c) If a proceeding in reorganization, bankruptcy or insolvency be instituted by or against Buyer or its property and if any trustee or receiver appointed therein fails to adopt and become bound by the terms, provisions and conditions of

this agreement within ninety days after such appointment;
then at any time after the occurrence of such an event of default, Owner may, upon written notice to Buyer, and upon compliance with any legal requirements then in force and applicable to such action, declare immediately due and payable, without further demand, the entire Purchase Price of the Equipment, whether the same shall then have fallen due or not, together with unpaid interest to date of such declaration.

19. Owner may at its election waive any such event of default and its consequences and rescind and annul any such declaration, by written notice to Buyer to that effect; provided, however, that Owner shall so do if, before sale of the Equipment under the authority of Paragraph 21 hereof, Buyer shall pay all costs and expenses of Owner incident to any such default and to the enforcement by Owner of the provisions hereof, and all sums which shall then have become due and payable by Buyer hereunder (other than such as shall have become due only because of a declaration under Paragraph 16 hereof) and shall remedy all other existing defaults or make provision therefor satisfactory to Owner. Thereupon, in any such case the respective rights of the parties shall be restored as if no such default had occurred and as if no such declaration had been made; but no such waiver, rescission or annulment shall limit or affect Owner's right to assert any other default, or impair its rights or remedies consequent thereon.

20. If an event of default shall occur, as hereinbefore provided, then at any time thereafter during the continuance of such default, and after declaring the entire Purchase Price immediately due and payable as hereinbefore provided, Owner may, without further notice or demand except to the extent necessary in order to comply with any legal requirements, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any of it, together with all accessions thereto, without liability to return to Buyer any sums theretofore paid, and free from all claims whatsoever except as hereinafter in Paragraph 24 provided, and may remove the same from the use and possession of Buyer. For such purpose Owner may enter upon Buyer's premises where any Equipment may be located, and may use and employ in connection with such removal, at the expense of Buyer, any supplies, services and aids, and any available trackage and other facilities of Buyer, without process of law. Buyer shall deliver the Equipment, or any of it, with accessions thereto, at Buyer's own cost, at such place or places as Owner may reasonably designate on the railroad of Buyer, and for such purpose shall move or draw the Equipment in the usual manner and at the customary speed of trains. In case of such retaking or delivery Owner shall have the right to store the same without charge upon the premises of Buyer at any point or

points selected by Owner and reasonably convenient to Buyer. It is hereby expressly agreed that performance of this agreement to deliver and store without charge the Equipment as hereinbefore provided is of the essence of the agreement between the parties and that, upon application to any court of equity having jurisdiction in the premises, Owner shall be entitled to a decree against Buyer requiring specific performance hereof.

21. If an event of default shall occur as hereinbefore provided, then at any time thereafter during the continuance of such default and after declaring the entire Purchase Price immediately due and payable as hereinbefore provided, Owner with or without retaking possession thereof may sell the Equipment, or any of it, and any such improvements, attachments and accessories, free from any and all claims of Buyer, or of any other party claiming by, through or under Buyer at law or in equity at public or private sale and with or without advertisement as Owner may determine, all subject to and in compliance with any legal requirements then in force and applicable to such sale. To the extent permitted by any such legal requirements, any sale or sales hereunder may be held or conducted at Chicago, Illinois, at such time or times as Owner may fix (unless Owner shall as so permitted, specify a different place or places, in which case the sale or sales shall be held at such place or places and at such time or times as Owner may specify), in one

lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as Owner may determine in compliance with any such legal requirements. Buyer shall be given written notice of such sale as provided in any such applicable legal requirements, but in any event no less than ten days prior thereto, by telegram or registered mail addressed to Buyer at

If such sale shall be a private sale permitted by such legal requirements, it shall be subject to the right of Buyer to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same, or a better, price as that offered by the intending purchaser.

To the extent not prohibited by any legal requirements then in force and applicable to such sale, Owner may itself bid for and become the purchaser of the Equipment or any of it so offered for sale without accountability to Buyer (except to the extent of surplus money received as hereinafter provided in Paragraph 24 hereof), and in payment of such Purchase Price Owner shall be entitled to the extent aforesaid to have credited on account thereof all sums due to Owner by Buyer hereunder.

22. No delay or omission of Owner in the exercise of any such power or remedy, and no renewal or extension of any payments due hereunder shall impair any such power or remedy, or shall be construed to be a waiver of any default, or any acquiescence therein.

23. Each and every power or remedy hereby specifically given to Owner shall be in addition to every other power or remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Owner. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others.

24. If Owner shall exercise any of the powers or remedies conferred upon it hereunder, Buyer shall have the right, after paying or causing to be paid to Owner all sums owed hereunder, including Owner's proper costs and expenses incident to the collection thereof, to require title to the Equipment, if not previously sold by Owner pursuant to the provisions hereof, to be transferred and assigned by Owner to Buyer free from any further liabilities or obligations to Owner. If after payment of all proper costs and expenses of Owner incurred in the enforcement of its remedies hereunder and after applying all sums of money realized by Owner under the remedies herein provided there shall remain any amount due to it under the provisions of this Agreement, Buyer shall pay the amount of such deficit to Owner. If after payment of all proper costs and expenses of Owner incurred in the enforcement of its remedies hereunder and after applying all sums of money realized by Owner under

the remedies herein provided there shall remain any amount due to it under the provisions of this Agreement, Buyer shall pay the amount of such deficit to Owner. If after payment of all proper costs and expenses of Owner incurred in the enforcement of its remedies hereunder and after applying as aforesaid all sums realized by Owner there shall remain a surplus in the possession of Owner, such surplus shall be paid to Buyer.

25. Any provision of this Agreement prohibited by any applicable law of any State, or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. If, however, the conflicting provisions of any applicable state law may be waived they are hereby waived by Buyer to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

26. Any extension of time granted by Owner to Buyer for the payment of any sum due under this Agreement, whether that extension be for an intermediate payment or for final payment, shall not be deemed a waiver of the title of Owner reserved hereunder or any of its rights and remedies hereunder or otherwise existing.

27. Buyer shall cause this Agreement to be duly filed with the Interstate Commerce Commission in accordance with Section 20c of the

Interstate Commerce Act, and otherwise as may be required by law for the full protection of the title of Owner; and Buyer shall from time to time do and perform any other act, and will execute, acknowledge, deliver, file, register and record any and all further instruments required by law or reasonably requested by Owner for the purpose of such protection of its title and rights, or for the purpose of carrying out the intention of this Agreement.

28. The parties recognize that pursuant to an agreement between Owner and the National Railroad Passenger Corporation, dated April 16, 1971, Owner has offered the Equipment to the said corporation upon the same terms and conditions as set forth herein and, in the event the National Railroad Passenger Corporation accepts Owner's offer in writing within thirty days of such offer, this Agreement as to Units of Equipment so accepted by the National Railroad Passenger Corporation, shall be null and void and of no force and effect.

29. Any notice hereunder to the party designated below shall be deemed to be properly served if delivered or mailed to it as its chief place of business at the following specified addresses:

- (a) To Owner, Attention Vice President-Finance, Room 1015, 80 E. Jackson Boulevard, Chicago, Illinois 60604.
- (b) To Buyer at 1801 K Street, N. W., Washington, D. C., 20006.

30. This Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized officers and under their corporate seals, all as of the date first above written.

AUTO-TRAIN CORPORATION,

CORPORATE SEAL

By 
President

ATTEST:

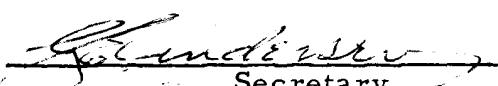

Assistant Secretary

THE ATCHISON, TOPEKA AND SANTA
FE RAILWAY COMPANY,

CORPORATE SEAL

By 
VICE PRESIDENT-FINANCE

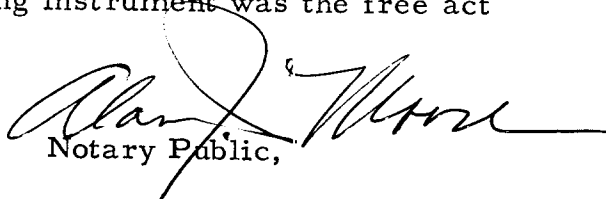
ATTEST:


Secretary

ORIGINAL

STATE-OF)
DISTRICT OF COLUMBIA) ss.
COUNTY-OF)

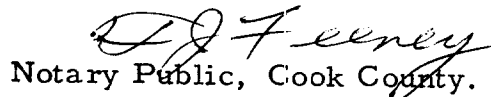
On this 16th day of Sept., 1971, before me personally appeared Eugene Kerik Garfield to me personally known, who, being by me duly sworn, says that he is President of Auto-Train Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public,

My commission expires September 30, 1975.

STATE OF ILLINOIS)
COUNTY OF COOK) ss.

On this 15th day of September, 1971, before me personally appeared R. W. HARPER, to me personally known, who, being by me duly sworn, says that he is VICE PRESIDENT-FINANCE of The Atchison, Topeka and Santa Fe Railway Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public, Cook County.

My Commission expires MAY 29, 1973